



Ad Standards Community Panel
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AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0357/18
2	Advertiser	Nova 100
3	Product	Entertainment
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	22/08/2018
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.1 - Discrimination or Vilification Race
- 2.3 - Violence Bullying

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement has a voice over stating, "Chrissie Swan, Sam Smith and Johnathon Brown" while each of these people appear on the screen. The words 'Chrissie, Sam & Brown' appear on the screen and are read by the voice over before being interrupted by Sam Pang who asks 'Aren't I the Sam?'. Chrissie, Brown and Sam Pang are then seen standing together whilst the voice over describes the show. Brown is seen to push Sam Pang away twice.

THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:

I find the act of Jonathan Brown pushing Sam Pang away TWICE very offensive. Jonathan Brown is a tall caucasian male with an imposing stature whereas Sam Pang is a shorter man of Asian descent. This act of Jonathan Brown pushing Sam Pang away is literally a depiction of a bigger white man bullying a smaller Asian man. The fact





that Chrissie Swan smiles standing next to Jonathan Brown further illustrates the depiction of white people banding together to gang up against the minority Asian. This ad condones bullying and racism through the actions of the cast, sending the message that it is acceptable for white people to exclude non-white people, and that it is also acceptable to physically assault them. The ad is immoral and done in poor taste. As a female person of colour living in Australia for close to 20 years, I have been racially vilified and discriminated against by many sections of the white Australian community. These kinds of depiction on Australian television normalise and perpetuate bullying and racism in the community. The Advertising Authority needs to step up and set higher standards for what is acceptable content for tv and radio advertising rather than demeaning content such as that portrayed by this ad.

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

Description of the Advertisement

The Advertisement is a 15 second brand TVC promoting Nova 100's breakfast show 'Chrissie, Sam & Brownny' (Show) which, in a light-hearted manner, suggests that Sam Pang is less well known to the Show's Melbourne audience than his Show co-hosts Chrissie Swan (a former reality TV star) and Jonathan Brown (a former AFL player).

The Advertisement achieves its humorous purpose by implying Sam Smith (the famous English singer-songwriter), and not Sam Pang, is instead a member of the Show, and through a gentle, friendly and intimate exclusion of Sam Pang facilitated by Jonathon Brown twice softly resisting Sam Pang's attempts to stand next to his Show Co-hosts.

We direct you to the enclosed script and copy of the Advertisement by way of further elucidation of the Advertisement.

Response of Nova 100

For the avoidance of doubt, we acknowledge the right of the complainant to file the Complaint, and indeed support Ad Standards' escalation of the Complaint pursuant to applicable complaints management protocols. However, Nova 100 categorically denies that the Advertisement breaches any section, or is any way inconsistent with the requirements, of the AANA Advertiser Code of Ethics (Code).

Section 2.1 – Discrimination or vilification

Advertising or Marketing Communication shall not portray people or depict material in



a way which discriminates against or vilifies a person or section of the community because of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief

Section 2.3 – Violence bullying

Advertising or Marketing Communication shall not present or portray violence unless it is justifiable in the context of the product or service advertised.

Section 2.6 – Health and Safety

Advertising or Marketing Communication shall not depict material contrary to Prevailing Community Standards on health and safety.

The Complaint alleges contravention of the Code on grounds of discrimination, vilification, racism and bullying, constituting an asserted breach of Section 2.1, Section 2.3 and Section 2.6, in circumstances where the Advertisement is alleged to, inter alia:

- depict “a tall Caucasian male with an imposing stature” pushing “a shorter man of Asian descent”, on one occasion “rather forcefully to the head”, and in a manner alleged to be tantamount to “a depiction of a bigger white man bullying a smaller Asian man”;*
- provide an illustration of “white people banding together to gang up against the minority Asian”, on account of Jonathon Brown’s actions and Chrissie Swan smiling;*
- condone “bullying and racism through the actions of the cast, sending the message that it is acceptable for white people to exclude non-white people, and that it is also acceptable to physically assault them”;*
- “normalise and perpetuate bullying and racism in the community”; and*
- portray “demeaning content”.*

Nova 100, without reservation, denies that the Advertisement constitutes a breach of Sections 2.1, 2.3 or 2.6 of the Code consistent with the complainant’s assertions, or for that matter any other section of the Code, given the Advertisement, relevantly:

- 1. does not, on any reasonable measure amount to a depiction or less favourable treatment of Sam Pang, in a manner which discriminates or vilifies, on account of Sam Pang’s race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief, in fact there is no single reference, symbolism or representation of the sort;*
- 2. employs a pervasive humour to convey the friendly and intimate relationship of the co-hosts of the Show, and does not use humour in a manner which creates a negative impression through the Advertisement’s imagery and language, nor does the Advertisement’s humour create a negative overall impression of Sam Pang’s race or ethnicity;*
- 3. does not present or portray violence, justifiable or otherwise, in the context of an*



advertised product or service;

4. does not include a strong, or for that matter a moderate or even feeble, suggestion of violence in a manner likely to be unacceptable to the Ad Standards Community Panel;

5. does not contain any form of realistic depiction of the consequences of violence;

6. comprises joyful interactions between professional colleagues of a similar age that could not on any reasonable view be deemed to constitute bullying, or similarly repugnant behaviour, contrary to Prevailing Community Standards; and

7. achieves its purpose of creating an overall impression, from the perspective of the ordinary, reasonable viewer, of a harmonious, intimate and friendly relationship amongst the co-hosts of the Show, via gentle physical interplay, borderline absurdist humour regarding the inclusion of Sam Smith, and a prevailing sentiment of happiness, friendship and warmth through persistent smiling and entertaining interplay.

Sections 2.2, 2.4, 2.5 and 2.7 of the Code

The Advertisement does not contain:

- any element that employs sexual appeal in any manner whatsoever (Section 2.2);*
- any element of sex, sexuality or nudity (Section 2.4); or*
- any strong or obscene language (Section 2.5).*

For these reasons, Nova 100 does not believe that the Advertisement contains any material which is relevant to sections 2.2, 2.4 or 2.5 of the Code.

Moreover, the Advertisement is clearly distinguishable as advertising material and for this reason Nova 100 does not believe the Advertisement constitutes a breach of Section 2.7 of the Code.

Conclusion

For the reasons included in this response, Nova 100 is of the firm view that the Advertisement does not breach the Code.

Nevertheless, Nova 100 respects the process to be undertaken by Ad Standards with respect to the Complaint, and welcomes any feedback or requests for further discussion of the Complaint with Ad Standards.

THE DETERMINATION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the Code).



The Panel noted the complainant's concern that the advertisement is shown to bully an Asian man and is discriminatory.

The Panel viewed the advertisement and noted the advertiser's response.

The Panel noted that this television advertisement features Chrissie Swan, Sam Smith and Johnathon Brown. The words 'Chrissie, Sam & Brownny' appear on the screen and are read by the voice over before being interrupted by Sam Pang who asks 'Aren't I the Sam?'. Chrissie, Brownny and Sam Pang are then seen standing together and Brownny is seen to push Sam Pang away twice.

The Panel considered whether the advertisement complied with Section 2.1 of the Code which requires that 'advertisements shall not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.'

The Panel noted the Practice Note to Section 2.1 of the Code which provides the following definitions:

"Discrimination – unfair or less favourable treatment
Vilification – humiliates, intimidates, incites hatred, contempt or ridicule".

Humour: A negative depiction of a group of people in society may be found to breach section 2.1, even if humour is used. The depiction will be regarded as a breach, if a negative impression is created by the imagery and language used in the advertisement. Advertisements can humorously suggest stereotypical aspects of an ethnic group or gender, provided the overall impression of the advertisement does not convey a negative impression of people of that group.

The Panel noted the complainant's concern that the advertisement is racist.

The Panel considered that the storyline of the advertisement is that Sam Pang has been replaced by Sam Smith, and is therefore not eligible to be in the group photo at the end of the advertisement. The Panel noted that Johnathon Brown is depicted as pushing Sam Pang away during the group shot, but considered that this is a humorous depiction based on the personality of the two Sam's, not due to his race or ethnicity.

The Panel noted that some members of the community may find this portrayal in bad taste, however noted that the issue of taste is not one which falls under any provision of the Code.



In the Panel's view the advertisement does not discriminate against or vilify any person or section of the community on the basis of race and did not breach Section 2.1 of the Code.

The Panel considered whether the advertisement breached Section 2.3 of the Code. Section 2.3 states: "Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised".

The Panel noted the complainant's concern that the advertisement depicts bullying.

The Panel noted the advertiser's response that the advertisement creates an impression of a friendly relationship amongst the co-hosts of the show by using physical interplay, borderline absurdist humour regarding the inclusion of Sam Smith, and a prevailing sentiment of happiness, friendship and warmth through persistent smiling and entertaining interplay.

The Panel considered that although an interpretation of bullying in the advertisement is possible, there is no evidence that Sam Pang is in distress or pain at his treatment. He is shown to be smiling during this scene, and appears to consider this interaction as joking among his friends, rather than bullying.

In the Panel's view the advertisement did not depict violence and did not breach Section 2.3 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Panel dismissed the complaint.

